



OFFICE FOR CIVIL RIGHTS & CIVIL LIBERTIES (CRCL)  
CBP COMPLAINT REFERRAL FORM

ASSIGNMENT	
Assigned To:	DHS Headquarters CBP IA
Requested From:	DHS Headquarters CRCL (b) (6)
Date Referred:	See attached memo.
Deadline to CRCL:	Within 180 days of the date on the attached memo.
CRCL Complaint No:	<b>09-10-CBP-0116</b>
ALLEGATIONS SUMMARY:	
CRCL Received Complaint	This matter involved an unaccompanied minor (UAC). On 7/17/09 CRCL received a Significant Incident Report from the HHS Office of Refugee Resettlement (ORR) stating that 17-year-old UAC (b) (6) (b) (6) alleged that a Border Patrol agent ran over him with a motorcycle and punched him on the head and body several times.
Specific Issues to be Addressed:	<ul style="list-style-type: none"><li>• Did Border Patrol agents riding motorcycles encounter this minor?</li><li>• If so, what were the circumstances surrounding the encounter?</li><li>• Did Border Patrol agents physically abuse the minor?</li></ul>
Additional Instruction and Documents To Review:	<ul style="list-style-type: none"><li>• Interview involved agents.</li><li>• Provide CRCL with the I213 for this minor, along with interview responses regarding the allegation.</li></ul>



**FLORENCE  
IMMIGRANT  
& REFUGEE  
RIGHTS PROJECT**

2601 N. Pinal Pkwy  
P.O. Box 654  
Florence, AZ 85232  
Tel: 520.868.0191  
Fax: 520.868.0192  
Web: www.firrp.org

U.S. Department of Homeland Security  
Office for Civil Rights and Civil Liberties  
Review and Compliance  
245 Murray Lane, SW  
Building 410, Mail Stop #0800  
Washington, DC 20528

VIA FACSIMILE

July 22, 2009

To Whom It May Concern:

This letter is an official complaint on behalf of (b)(6) regarding an instance of abuse by the Border Patrol that took place June 20, 2009 at the time of his arrest and subsequent detention, submitted by the Florence Immigrant and Refugee Rights Project (FIRRP).

(b)(6) a seventeen year old Guatemalan citizen, reported that he was physically hurt by Border Patrol agents when they hit him on his back using the front wheel of their motorcycle, kicked him in his side multiple times, and threw him into a bush full of thorns. In addition, (b)(6) stated that he felt hungry during his 24-hour stay at the detention center because he was only given juice and crackers every five hours. As an organization that provides legal assistance and advocates on behalf of unaccompanied minors who are under the care of the Office of Refugee Resettlement in Arizona, we are deeply concerned that this incident was a direct violation of the Code of Federal Regulations and the *Flores Settlement Agreement*.

8 C.F.R. 287.8 specifically states that, "a designated immigration officer shall always use the minimum non-deadly force necessary to accomplish the officer's mission and shall escalate to a higher level of non-deadly force only when such higher level of force is warranted by the actions, apparent intentions, and apparent capabilities of the suspect, prisoner, or assailant." What (b)(6) experienced at the time of his arrest is an excess of force and was not warranted. Furthermore, the fact that he was only given crackers and juice every five hours is a violation of Article 12 of the Flores Settlement Agreement which states, "Facilities will provide access to toilets and sinks, drinking water and food as appropriate..." Crackers and juice about four times in the course of 24 hours is not an appropriate meal for a seventeen year old, particularly one who has just walked through the desert for four days in the middle of the summer heat.

Attached is a formal declaration by the concerned minor, detailing the abuse he experienced with as much detail as he can remember. Also attached is a consent form giving the Florence Project authority to receive personal information regarding (b)(6) case with your office and any related information regarding this incident of abuse and its subsequent investigation.

We hope that this incident will be promptly investigated and forwarded on to the appropriate bodies such that proper action can be taken to prevent similar incidents



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from occurring in the future. Please do not hesitate to contact the Florence Project with any questions or concerns you might have regarding this complaint. We welcome the opportunity to meet with you and further assist you in resolving this issue.

Thank you for your attention to this important matter and for your assistance in insuring that unaccompanied minors taken into Immigration custody along the Arizona/Sonora border are treated in accordance with our laws.

Sincerely,

(b)(6)

(b)(6)

Children's Initiative

The Florence Immigrant and Refugee Rights Project  
PO Box 654  
Florence, AZ 85232  
Tel. 520-868-0191  
Fax. 520-868-0192

(b)(6)

The Florence Immigrant Rights Project  
PO Box 654  
Florence, AZ 85232  
Tel. 520-868-0191  
Fax. 520-868-0192

Attachments:

- Affidavit of Alleged Abuse of
- Release of Information, signed

(b)(6)

CC: Chief (b)(6),(b)(7)(C)  
Chief Patrol Agent, Tucson Border Patrol Sector  
U.S. Customs and Border Protection  
2430 S. Swan Road  
Tucson, AZ 85711

Assistant Chief (b)(6),(b)(7)(C)  
1300 Penn Ave NW  
Washington D.C. 20

### Affidavit of Abuse

I, (b)(6) do swear under penalty of perjury that the following declaration is true and correct to the best of my knowledge and that it has been read back to me in Spanish.

- 1) I am seventeen years old and a native and citizen of Guatemala.
- 2) I entered the United States on June 16, 2009 through Altar, Sonora with a group of 20 people, one of whom was a coyote.
- 3) At around 8:00 am on the morning of June 20, 2009, we were spotted by a helicopter and two Border Patrol officers on two motorcycles. I was running away from them. One of the officers on the motorcycles came very close to me and lifted the motorcycle while riding it, so that it would run only on its back wheel. He hit me on my back using the front wheel of the motorcycle. This hurt my back and caused me to fall to the ground.
- 4) Once I was on the ground, one of the officers who was wearing a green uniform, was white, thin, and had blue eyes, started kicking me on my side like I was a soccer ball. Every time he kicked me it was very hard and it hurt.
- 5) After kicking me, the same officer grabbed me by the shoulder and threw me on a thorny bush. The thorns pierced my skin throughout my body and some remained stuck in my hands. I saw another man from my group bleeding throughout his mid section from being thrown to the bushes by another officer.
- 6) While the officer that caught me went to catch more people from the group, he handcuffed me to the motorcycle so that I couldn't move.
- 7) Once the officer had gathered about eight people from my group, he chained us to each other and made us walk for about 10 minutes to a large vehicle. On the way, I got very thirsty and I wanted to drink my water but the officer told me I couldn't.
- 8) I was taken to a detention center where I was asked many questions, including my age. At first I lied about my age but told them the truth soon after because I was afraid of being put in jail.
- 9) While I was being questioned I didn't understand everything the officer asked me because my native and first language is Quiche and I was not given a translator at any point.
- 10) I was put in a cell with other minors and we were fed only crackers and juice every five hours throughout the day I was there. I felt hungry my whole stay

there. I was also uncomfortable because I didn't have privacy to go to the bathroom. I stayed in this cell for about 24 hours until I was taken to the shelter I am now.

- 11) During my stay in that detention center I asked to make a phone call but the officer who was in charge to told me I couldn't.
- 12) I felt pain in my back throughout my stay there and I still had thorns stuck inside my hand. I did not ask for medical attention and I was not given any.

Executed in Phoenix, Arizona July 20, 2009.

(b)(6)

Date: 7/24/09

I, (b)(6), A# (b)(6)  
authorize the United States Department of Homeland Security to share personal  
information regarding this official complaint with the Florence Immigrant and Refugee  
Rights Project.

*Yo autorizo al Departamento de Seguridad Nacional de los Estados Unidos a compartir  
información personal respecto a esta queja oficial con el Proyecto Florence para los  
Derechos de Inmigrantes y Refugiados.*

(b)(6)

Date: 07/24/2009

## CERTIFICATE OF TRANSLATION

I, (b)(6) certify that I am competent to translate  
the foregoing declaration of (b)(6)  
originally made before me in Spanish, and that the translation is true and accurate to the  
best of my abilities.

I certify that under penalty of perjury that this translation is true and correct pursuant to  
USC sec. 1746.

Date: 07/24/09

(b)(6)



NOV 21 2009

**REQUEST FOR INFORMATION**

**Institution to Receive Information:**

Office for Civil Rights and Civil Liberties  
Review and Compliance Unit  
245 Murray Lane, SW, Building 410  
Washington, DC 20528-0800  
Phone: 202-357-(b)(6)  
Fax: 202-401-4708

**CRCL Staff Member Assigned:**

(b)(6)

**Detainee Names and Complaint Numbers:** Complaint No. 09-10-CBP-0116

(b)(6)

Complaint No. 09-10-CBP-0129

(b)(6)

**Purpose of the Request:**

On July 7, 2009, CRCL received a Significant Incident Report (SIR) from the Department of Health and Human Services, Office of Refugee Resettlement (ORR), alleging that a Border Patrol agent ran over 17-year-old unaccompanied minor, (b)(6) with his vehicle, and subsequently punched him on the head and body several times. On July 24, 2009, CRCL received a faxed complaint letter from the Florence Immigrant and Refugee Rights Project (Florence Project), and a detailed affidavit signed by (b)(6) discussing the same incident alleged through ORR. The Florence Project complaint and affidavit also allege that another agent described as white, thin and with blue eyes, kicked the minor during apprehension while he was on the ground and subsequently took the minor by his shoulders and threw him into a bush of thorns. After his apprehension, as he was being led to the Border Patrol vehicle, the minor claims an agent denied him a drink of water. (b)(6) also alleges that he was not provided a Quiche translator and therefore did not understand the agents' questions during processing. The letter and affidavit also state that the minor was not allowed to make a phone call, and was not provided food, other than juice and crackers, for the duration of time that he remained in Border Patrol custody.

On July 24, 2009, CRCL received three additional complaint letters from the Florence Project which included detailed affidavits from three unaccompanied minors, alleging they were physically and verbally abused and mistreated by Tucson Sector Border Patrol agents during apprehension and while in custody at Tucson Sector Border Patrol Stations. Fifteen-year-old (b)(6) alleges



that after an agent handcuffed him, the agent put on a glove and hit the minor in the mouth, which caused bleeding. The minor claims he did not receive medical attention even though other agents noticed his injury. (b) (6) also claims that he was not provided with a translator and therefore signed papers which he did not understand. He also claims that he was forced to sleep on the hold room floor without blankets. The minor also alleges that he was choked and thrown to the ground at the Border Patrol station by an agent who was angry and called him a "pig" when the minor asked for food. Sixteen-year-old (b) (6) states that he ran from agents during apprehension, and when they caught him they shoved his head to the ground with such force that it caused his eye to swell and, though he was in pain, he did not receive medical care. (b) (6) also alleges that he witnessed a "girl" from his group being hit on the head with a flashlight by an agent, and then saw the girl fall to the ground. Fifteen-year-old (b) (6) alleges that he was left behind by the group he was walking with because he was ill. When Border Patrol agents found him, the minor claims he was very sick but, rather than providing medical care, two agents transported the minor to a Border Patrol station where they allegedly questioned him, threatened him, pushed him, and verbally abused him calling him names like "piece of crap" and "fucking idiot." Afterwards, the minor claims he grew more ill and asked for medical attention, and was then taken to the hospital.

**Purpose of the Investigation:**

Under 42 U.S.C. 2000ee-1 and 6 U.S.C. 345, the Office for Civil Rights and Civil Liberties has the responsibility to review and assess information concerning abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion, by employees and officials of the Department of Homeland Security. The purpose of this investigation is to determine if Tucson Sector Border Patrol violated the civil rights and civil liberties of (b) (6) and whether departmental policy and procedures, the Flores Settlement Agreement, and the William Wilberforce Trafficking Victims Protection Re-authorization Act of 2008 directives were followed.

**Information Needed:**

1. The names and current contact information for all Border Patrol agents involved in each minor's apprehension and processing.
2. The identification of every Border Patrol station where each minor was initially processed after apprehension, and any additional station where the minors may have been subsequently transferred to.
3. For each minor, a report containing the following information:
  - The identity of all Border Patrol agents involved in the apprehensions and processing of each minor;
  - The identity of the Border Patrol station where initial processing occurred after apprehension;
  - The identity of each Border Patrol station where additional processing may have been conducted, and the date and hours that each minor spent there.
  - The identity of each Border Patrol station the minor was transferred to, the reason for the transfer, and the date and hours that each minor spent there; and,

- (b)(5),(b)(6)
- The mode of transportation utilized by Border Patrol to transport and/or transfer each minor between stations or elsewhere.
  - The date and time Border Patrol notified ICE/DRO of the need for ORR bed space for each minor; the date and time DRO responded to Border Patrol regarding an ORR-assigned placement for each minor; and the date and time DRO took custody of each minor from Border Patrol, for transport to ORR.
4. Copies of each minor's A-File, to include all relevant forms (i.e. I-213, I-831, I-770, I-862); all records demonstrating the minors were provided the opportunity to contact the Consulate and family members; all records indicating the minors were offered and received interpretation services; and any records regarding requests for or the provision of medical care to (b) (6)
5. The names, ages, and A-Numbers of all female aliens apprehended with (b) (6)
6. For each station holding the minors:
- Copies of the Juvenile Detention Logs, to include feeding information (date/time) for each minor;
  - A description of the types of snacks, meals (including hot meals), and beverages that were offered to the minors at each Border Patrol Station;
  - The policy/procedure for the provision of blankets and bedding to minors at the Border Patrol Station holding (b) (6)
  - Policy/procedure for the provision of medical care at the Border Patrol Stations holding (b) (6)
7. Any current Border Patrol policies/guidance on apprehension techniques and use of force when children may be involved.

**Expected Date of Delivery:**

2 weeks from the date of transmittal of this Data Request.

**Delivery Method and Questions:**

Please direct all deliveries and questions to (b) (6)

<b>Fax:</b>	Up to 20 pages can be faxed @ 202-401-4708.
<b>Email:</b>	(b) (6) @dhs.gov (PDF, Word or JPEG files)
<b>Mail or Courier (UPS, DHS, FedEx)</b>	Department of Homeland Security, Office for Civil Rights and Civil Liberties, 245 Murray Lane, SW, Building 410, Washington, DC 20528-0800.
<b>Inter Office Mail:</b>	Mail Stop #800

**From:** (b)(6)@dhs.gov]  
**Sent:** Thursday, July 30, 2009 5:22 PM  
**To:** (b)(6)  
**Subject:** RE: 4 New Unaccompanied Minor SIRs - Please Review

**Follow Up Flag:** Follow up  
**Flag Status:** Red  
Sorry, yes, I agree.

(b)(6)  
**Acting Director for Review and Compliance**  
**Office for Civil Rights and Civil Liberties**  
**Department of Homeland Security**  
**202-357-(b)(6)**  
**202-615-(b)(6) (Cell)**  
**202-401-4708 (Fax)**

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**From:** (b)(6)@dhs.gov]  
**Sent:** Thursday, July 30, 2009 5:19 PM  
**To:** (b)(6)  
**Subject:** FW: 4 New Unaccompanied Minor SIRs - Please Review

I don't believe I ever heard from you regarding the below UAC SIRs.

(b)(6)  
Senior Policy Advisor (Compliance)  
Office for Civil Rights and Civil Liberties (CRCL)  
U.S. Department of Homeland Security  
Washington, DC  
202-357-(b)(6)  
(b)(6)@dhs.gov

WARNING: This message may contain attorney-client communications, attorney work product, and agency deliberative communications, all of which may be privileged and not subject to disclosure outside the agency or to the public. Please consult with the Department of Homeland Security, Office of General Counsel before disclosing any information contained in this email.

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**From:** (b)(6)  
**Sent:** Wednesday, July 22, 2009 6:25 PM  
**To:** (b)(6)  
**Subject:** 4 New Unaccompanied Minor SIRs - Please Review

Note: The first three of these also involve the Tucson Sector.

(b)(6) **Recommend** (b)(5)  
The 14 year old UAC alleges an agent treated him roughly during apprehension. He also claims he experienced daily anxiety and was angry when agents were verbally



abuse to him while he was in the holding cell, including when he refused to answer their questions. He was apprehended on 5/20 and placed with ORR on 5/21.

(b)(6) **Recommend** (b)(5)

The 17 year old UAC alleges that, during apprehension, agents forcefully threw him on the ground. At that time, he claims agents said in Spanish, "If you move, I will kill you."

(b)(6) **Recommend** (b)(5)

(b)(5)

The 17 year old UAC alleges that a Border Patrol agent ran over him with a motorcycle and punched him on the head and body several times, which caused the minor back pain. The minor was apprehended on 6/20/09 and placed with ORR on 6/21/09, at which time he was evaluated by a facility medical coordinator and on-site physician who reported the minor had no visible bruises, marks or cuts in the areas where he reported to have received injuries. The minor also reported no pain at that time.

(b)(6) (b)(5)

(b)(5)

The 15 year old UAC alleges that he was travelling with his father and his father's female friend when he was apprehended by officers who were not wearing uniforms. He was taken to an "unknown station somewhere in Las Vegas" where he was asked to empty out his pockets and hand over his shoes and wallet. He reported having \$1.50 in loose change and @ \$400.00 in his wallet, along with some business cards. He was later transferred to another "unknown station" and was given his change and his wallet, but said the wallet was missing the \$400.00 and the business cards. When he asked the officer about his money, the officer said he didn't have any money. He said he was then transferred one more time, fingerprinted, taken to the airport, and transported to the El Cajon, CA, ORR facility. ORR forms indicate he was apprehended and placed on the same day, 6/19/09. ICE JFRMU reports the minor was in a vehicle stopped by DEA on June 18 and five adults were arrested for narcotics violations. The minor was not charged, was transferred to ICE/OI, processed for removal, transported by DRO and placed with ORR on the 19<sup>th</sup>.

(b)(6)

Senior Policy Advisor (Compliance)  
Office for Civil Rights and Civil Liberties (CRCL)  
U.S. Department of Homeland Security  
Washington, DC

202-357 (b)(6)

(b)(6) @dhs.gov

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**From:** (b)(6)  
**Sent:** Friday, July 31, 2009 5:21 PM  
**To:** (b)(6)  
**Subject:** New Unaccompanied Minor Complaint - (b)(6)  
(b)(6)

**Attachments:** SIR - (b)(6) Placement  
information.pdf  
Original complaint documents are attached.

(b)(6) **CRCL Complaint # 09-10-CBP-0116**

This matter involved an unaccompanied minor (UAC). CRCL received a Significant Incident Report from the HHS Office of Refugee Resettlement (ORR) stating that 17-year-old UAC, (b)(6) alleged that a Border Patrol agent ran over him with a motorcycle and punched him on the head and body several times.

Let us know if you have any questions.

(b)(6)  
Senior Policy Advisor (Compliance)  
Office for Civil Rights and Civil Liberties (CRCL)  
U.S. Department of Homeland Security  
Washington, DC  
202-357-(b)(6)  
(b)(6)@dhs.gov

WARNING: This message may contain attorney-client communications, attorney work product, and agency deliberative communications, all of which may be privileged and not subject to disclosure outside the agency or to the public. Please consult with the Department of Homeland Security, Office of General Counsel before disclosing any information contained in this email.

**From:** (b)(6)  
**Sent:** Saturday, November 21, 2009 6:09 PM  
**To:** (b)(6),(b)(7)(C)  
**Attachments:** RETENTION MEMO.pdf; (b)(6) ORIG COMPLAINT.pdf; (b)(6)  
ORIG COMPLAINT.pdf; (b)(6) ORIG COMPLAINT.pdf; (b)(6)  
(b)(6) ORIG COMPLAINT.pdf

Dear Colleagues,

Please find the Retention Memo and original complaint documents, for four complaints involving Tucson Sector Border Patrol, which will be investigated by the DHS Office for Civil Rights and Civil Liberties. We will be reviewing these matters with other complaints involving the Tucson Sector during one onsite investigation. (Date to be announced.)

Please let us know if you have any questions. Thank you.

(b)(6)  
Senior Policy Advisor (Compliance)  
Office for Civil Rights and Civil Liberties (CRCL)  
U.S. Department of Homeland Security  
Washington, DC  
202-357 (b)(6)  
(b)(6) @dhs.gov

WARNING: This message may contain attorney-client communications, attorney work product, and agency deliberative communications, all of which may be privileged and not subject to disclosure outside the agency or to the public. Please consult with the Department of Homeland Security, Office of General Counsel before disclosing any information contained in this email.



# Homeland Security

September 8, 2009

(b)(6)

The Florence Immigrant and Refugee Rights Project  
P.O. Box 654  
Florence, AZ 85232

Re: Complaint No. 09-10-CBP-0116

(b)(6)

Complaint No. 09-10-CBP-0129

(b)(6)

Dear Ms. (b)(6) and Ms. (b)(6)

The Department of Homeland Security's Office for Civil Rights and Civil Liberties received four complaints from you on July 24, 2009. Under 6 U.S.C. 345 and 42 U.S.C. 2000ee-1, this Office has the responsibility to review and assess information concerning abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion, by employees and officials of the Department of Homeland Security (DHS). Pursuant to 6 U.S.C. 345(a)(6) and internal DHS policies, we initially refer all such complaints to the Office of Inspector General. If the Inspector General declines to accept the complaint, it is returned to this Office for handling or reassignment within the Department.

The issues you raise are very important to us, and we are working to provide a written response describing how we will handle these matters. The information you provided or may provide will be used in accordance with 5 U.S.C. 552 (Freedom of Information Act), 5 U.S.C. 552a (Privacy Act), 6 U.S.C. 345 (Homeland Security Act), 42 U.S.C. 2000ee-1 (9/11 Commission Act), 44 U.S.C. 3101 (Federal Records Act) and other relevant federal laws. While we will seek to prevent unnecessary disclosure of the information provided, we may need to share some of this information with relevant persons. Also, we may be required by law or government policy to release information, in whole or in part, to other government agencies, Congress, and other



private individuals. Such disclosures may be mandatory under the Privacy Act, the Freedom of Information Act, the Federal Records Act, and other statutes or regulations. When disclosures are made, personal information will be redacted to the extent permissible. A discussion of your rights under the Freedom of Information Act and the Privacy Act can be found at

<http://www.pueblo.gsa.gov/call/foia.htm> or in the attached materials.

Please provide us your updated contact information, including a phone number, e-mail, and mailing address. Thank you for your patience in awaiting our response. You may contact this Office by email at [civil.liberties@dhs.gov](mailto:civil.liberties@dhs.gov) or by phone at 1-866-644-8360, 1-866-644-8361 (TTY). For additional information about the roles and responsibilities of our Office, see <http://www.dhs.gov/civilliberties>.

Thank you for contacting the Department of Homeland Security's Office for Civil Rights and Civil Liberties.

Director for Review and Compliance  
Office for Civil Rights and Civil Liberties

Copy to:

(b)(6)

The Florence Immigrant and Refugee Rights Project

Enclosure

**From:** (b)(6)@dhs.gov]

**Sent:** Monday, August 10, 2009 7:08 AM

**To:** (b)(6)

**Subject:** RE: New Unaccompanied Minor Complaint - (b)(6)

(b)(6)

The following message is unclassified. It is being returned to you for disposition in accordance with your organization's applicable policies and procedures.

The below matter was reviewed by the U.S. Department of Homeland Security (DHS), Office of Inspector General (OIG) and is being returned to you for disposition in accordance with your organization's applicable policies and procedures.

You are not required to inform the DHS OIG of any action you might take in this matter.

Duplicate

**From:** (b)(6)@dhs.gov]

**Sent:** Wednesday, August 05, 2009 7:10 AM

**To:** (b)(6)

**Subject:** RE: New Unaccompanied Minor Complaint - (b)(6)

(b)(6)

**Follow Up Flag:** Follow up

**Flag Status:** Red

(b)(6)

We are still looking into this complaint. I should have a decision for you by the end of the week

(b)(6)

Investigator  
Office of Inspector General, Investigations  
Department of Homeland Security  
202-254- (b)(6)

Duplicate

**From:** (b)(6)@acf.hhs.gov]

**Sent:** Tuesday, July 07, 2009 7:33 PM

**To:** (b)(6)

**Subject:** SIR (b)(6)

**Follow Up Flag:** Follow up

**Flag Status:** Red

**Attachments:** SIR - (b)(6) Placement  
information.pdf

Please find an allegation of abuse by a UAC.

(b)(6)

United States DHHS\ACF\ORR\DUCS  
Federal Field Specialist Supervisor

(202) 430

(b)(6)



Homeland  
Security

NOV 21 2009

(b)(6)

Florence Immigrant and Refugee Rights Project  
P.O. Box 654  
Florence, AZ 85232

Re: Complaint No. 09-10-CBP-0116

(b)(6)

Complaint No. 09-10-CBP-0129

(b)(6)

Dear Ms. (b)(6) and Ms. (b)(6)

The Office for Civil Rights and Civil Liberties received information from you on July 9, 2009, concerning the treatment of (b)(6) and again on July 24, 2009, concerning the treatment of (b)(6) by employees of Customs and Border Protection (CBP) at Tucson Sector Border Patrol Stations, during the months of April and June, 2009.

Under 6 U.S.C. 345 and 42 U.S.C. 2000ee-1, the Office for Civil Rights and Civil Liberties has the responsibility to review and assess information concerning abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion, by employees and officials of the Department of Homeland Security. Pursuant to 6 U.S.C. 345(a)(6) and internal Department of Homeland Security policies, the Office for Civil Rights and Civil Liberties initially refers all such complaints to the Office of Inspector General for handling under the Inspector General Act of 1978, as amended. If the Inspector General declines to accept the complaint, it is returned to this Office for handling or reassignment within the Department of Homeland Security. The Office of Inspector General has declined to open an investigation into the allegations you raise. However, the Office for Civil Rights and Civil Liberties has determined that we will review one or more of the concerns you have raised.

This Office will review the following issues:

- Whether minors are being mistreated by Tucson Sector Border Patrol agents during apprehension and while in Border Patrol custody;
- Whether minors are screened for medical problems and injuries during Border Patrol processing, and are provided with appropriate medical care when needed;
- Whether minors receive appropriate provisions while in Border Patrol custody, such as telephone access, translation services, meals, and bedding.

This Office takes allegations of violations of civil rights and civil liberties very seriously. The purpose of our review is to determine if your allegations raise issues that should and can be addressed by the management of the Department of Homeland Security. You can expect to receive a letter from us telling you how we have concluded this matter.

Under 6 U.S.C. 345 and 42 U.S.C. 2000ee-1, no legal or procedural rights or remedies are provided to individuals. Accordingly, this Office may not obtain any legal remedies, damages or other relief on behalf of an individual.

As we are beginning our review of this complaint, a representative from this Office may contact you for additional information. If you have any questions concerning this complaint, you may contact this Office by phone at 1-866-644-8360, 1-866-644-8361 (TTY), or by email at [civil.liberties@dhs.gov](mailto:civil.liberties@dhs.gov). When you communicate with us, please include the complaint number. In addition, it is very important to notify us of any changes in your address or telephone number.

Sincerely,



David D. Gersten  
Acting Deputy Officer for Programs and Compliance  
Office for Civil Rights and Civil Liberties  
U.S. Department of Homeland Security

Copy to:

(b)(6)

Florence Immigrant and Refugee Rights project

NOV 21 2009



Homeland  
Security

MEMORANDUM FOR: Jayson P. Ahern  
Acting Commissioner  
Customs and Border Protection

David V. Aguilar, Chief  
Office of Border Patrol  
Customs and Border Protection

Alfonso Robles  
Chief Counsel  
Customs and Border Protection

FROM: Stephen T. Shih *SS for SS*  
Acting Officer for Civil Rights and Civil Liberties

David J. Palmer *DP*  
Deputy Associate General Counsel (Legal Counsel)  
Office of General Counsel

SUBJECT: Complaint No. 09-10-CBP-0116  
(b)(6)

Complaint No. 09-10-CBP-0129  
(b)(6)

The Office for Civil Rights and Civil Liberties (CRCL) has received four complaints alleging that employees or officials of the Department of Homeland Security have abused individuals' civil rights or civil liberties. The allegations are specifically addressed to actions taken by Customs and Border Protection (CBP). The purpose of this memorandum is to describe how CRCL will work with CBP to investigate and resolve these complaints.

~~Protected by Attorney-Client and Deliberative Process Privileges~~



## INTRODUCTION

The mission of CRCL is to assist the dedicated men and women of our Department to secure America while preserving our freedoms and our way of life. We attempt to accomplish this mission in four ways:

- We help the Department to shape policy in ways that are mindful of civil rights and civil liberties by providing proactive advice, evaluation and review of a wide range of technical, legal and policy issues.
- We investigate and resolve complaints filed by the public regarding Departmental policies or actions taken by Departmental personnel.
- We provide leadership to the Department's equal employment opportunity programs, seeking to make this Department the model federal agency.
- We are engaged with the public regarding these issues.

Under 6 U.S.C. 345 and 42 U.S.C. 2000ee-1, this Office is charged with investigating complaints alleging abuses of civil rights, civil liberties and racial, ethnic, and religious profiling by employees and officials of the Department of Homeland Security. The procedures the Office uses as it investigates complaints filed by members of the public are outlined in Department of Homeland Security Management Directive 3500.

## ALLEGATIONS

On July 7, 2009, CRCL received a Significant Incident Report (SIR) from the HHS Office of Refugee Resettlement (ORR) alleging that a Border Patrol agent ran over 17-year-old unaccompanied minor, (b)(6) and punched him on the head and body several times. On July 24, 2009, CRCL received a faxed complaint letter from the Florence Immigrant and Refugee Rights Project (Florence Project), and a detailed affidavit signed by (b)(6) discussing the same incident alleged through ORR. The Florence Project complaint and affidavit also allege that another agent described as white, thin and with blue eyes, kicked the minor during apprehension while he was on the ground and subsequently took the minor by his shoulders and threw him into a bush of thorns. After his apprehension, the minor claims an agent denied him a drink of water. (b)(6) also alleges that he was not provided a Quiche translator and therefore did not understand the agents' questions. The letter and affidavit also state that the minor was not allowed to make a phone call, and was not provided food, other than juice and crackers, for the duration of time that he remained in Border Patrol custody.

On July 24, 2009, CRCL received three additional complaint letters from the Florence Project which included detailed affidavits from three unaccompanied minors, alleging they were physically and verbally abused and mistreated by Tucson Sector Border Patrol agents during apprehension and while in custody at Tucson Sector Border Patrol Stations. Fifteen-year-old (b)(6) alleges that after an agent handcuffed him, the agent put on a glove and hit the

minor in the mouth, which caused bleeding. The minor claims he did not receive medical attention even though other agents noticed his injury. (b) (6) also claims that he was not provided with a translator and therefore signed papers which he did not understand. He also claims that he was forced to sleep on the hold room floor without blankets. The minor also alleges that he was choked and thrown to the ground at the Border Patrol station by an agent who was angry and called him a "nig" when the minor asked for food. Sixteen-year-old (b) (6) (b) (6) states that he ran from agents during apprehension, and when they caught him they shoved his head to the ground with such force that it caused his eye to swell and, though he was in pain, he did not receive medical care. (b) (6) also alleges that he witnessed a "girl" from his group being hit on the head with a flashlight by an agent, and then saw the girl fall to the ground. Fifteen-year-old (b) (6) alleges that he was left behind by the group he was walking with because he was ill. When Border Patrol agents found him, the minor claims he was very sick but, rather than providing medical care, two agents transported the minor to a Border Patrol station where they allegedly questioned him, threatened him, pushed him, and verbally abused him calling him names like "piece of crap" and "fucking idiot." Afterwards, the minor claims he grew more ill and asked for medical attention, and was then taken to the hospital.

#### SCOPE OF REVIEW

This Office will conduct a review of this matter. The purpose of our review is to determine if the factual allegations in the complaint can be verified; if the verified facts lead to a conclusion that the Constitution, a federal statute, or a Departmental policy has been violated; and, if so, what steps should be taken by CBP to address the complaint. Our goal will be to produce a report that will assist you in making CBP the model agency that you desire. Our communications with CBP personnel and documents generated during this review, particularly the final report, will be protected, to the maximum extent possible, by attorney-client and deliberative process privileges.

#### QUESTIONS PRESENTED

The specific questions our Office will be exploring include:

1. (b)(5) Are Tucson Sector Border Patrol agents using the appropriate level of force during apprehensions of juveniles?
2. Are Tucson Sector Border Patrol Stations providing juveniles with the required translation/interpretation services?
3. Are Tucson Sector Border Patrol agents verbally and physically abusive toward juveniles while they are in Border Patrol custody?

- (b)(5)
4. Are Tucson Sector Border Patrol agents adequately screening juveniles for medical problems and injuries, and providing appropriate medical care?
  5. Are Tucson Sector Border Patrol Stations providing juveniles with appropriate telephone access, meals and blankets, as required by the *Flores* Settlement Agreement, and Border Patrol Hold Room Policy?

#### INITIATING THE INVESTIGATION

We request an initial discussion with your agency about this complaint and our plans for reviewing the matter. (b) (6) will be handling this review. We request that you schedule an initial discussion with Ms. (b) (6) no later than two weeks of the date of this memorandum. We look forward to working together to determine all the facts surrounding these matters. If you have any questions, please do not hesitate to contact Ms. (b) (6) by phone at 202-357-(b) (6) 1-866-644-8361 (TTY), or by email at (b) (6)@dhs.gov.

Copies to:

(b) (6)  
Joint Intake Center  
Customs and Border Protection

(b)(6), (b)(7)(C)  
Franklin Jones  
Executive Director  
Office of Equal Opportunity  
Customs and Border Protection

Joint Intake Center  
[joint.intake@dhs.gov](mailto:joint.intake@dhs.gov)

(b)(6), (b)(7)(C)  
Robert M. Lewandowski  
Chief of Staff  
Office of Border Patrol  
Customs and Border Protection

(b)(6), (b)(7)(C)  
Jeffrey R. Egerton  
Assistant Chief, Office of Internal Affairs/IOD  
Office of Border Patrol  
Customs and Border Protection

Enclosures

~~Protected by Attorney-Client and Deliberative Process Privileges~~

(b)(6)

**From:**

(b)(6)

**Sent:**

Wednesday, July 29, 2009 6:37 PM

**To:**

(b)(6)

**Subject:**

4 additional unaccompanied minor complaints from the Florence Project - Please review!

**Follow Up Flag:** Follow up**Flag Status:** Red

4 additional complaints with affidavits from minors in the Tucson Sector, submitted to me from the Florence Project. Let me know what you think.

(b)(6)

**Recommend**

(b)(5)

The 15 year old Guatemalan minor claims that an agent apprehended him on April 24, 2009, and handcuffed him, then put on a glove and hit the minor in the mouth, causing him to bleed. In custody at Tucson, he claims he was given papers to sign which no one explained and he did not understand, though he signed them. He also states he spent two days at the Tucson station and slept on the floor without being provided a blanket. On his last day in DHS custody, the minor states he was very hungry and asked an agent (whom he describes) for crackers, but the agent called him a "pig", tried to choke him, and threw him to the ground. He claims other boys in the holding cell witnessed the agent's abuse, and he provides the name and A number of another UAC who was in the cell when it occurred and who was placed in the same ORR facility with Lux.

(b)(6)

**Recommend: Recommend**

(b)(5)

(b)(5)

The 17 year Guatemalan minor claims Border Patrol agents on motorcycles hit his back with the front wheel of their motorcycle, kicked him in the side multiple times, and threw him into a bush of thorns. While in BP custody for 24 hours, he claims he was very hungry as he was only provided with crackers and juice every five hours. He also states that he asked to make a phone call but was denied. The minor also claims he was uncomfortable in the hold room because he didn't have any privacy to go to the bathroom. He also states that he had thorns stuck inside his hand for the duration of his BP custody. He didn't ask for medical attention and was not provided medical attention.

(b)(6)

**Recommend**

(b)(5)

(b)(5)

The 16 year old Guatemalan minor claims he ran from agents during apprehension and an agent caught him, threw him on the ground and smashed the side of his head into the ground with his boot, causing the minor's eye to swell. After he was caught, the minor states he saw an agent hit a 16 year old female on the head with a flashlight, causing her to fall on the ground. He stated his eye continued to swell and hurt even after they arrived at the BP station but he did not receive medical attention, and he didn't ask for medical attention, though he was taken to a doctor when he arrived at the ORR placement facility.

(b)(6)

**Recommend**

(b)(5)

(b)(5)

The 15 year old from El Salvador was apprehended by Border Patrol near Sonora where he had traveled with six other people and a guide. Because he was sick, he claims the group left him by the

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side of a road, where he waited to turn himself in to Border Patrol agents. After agents found him and took him to the nearest BP station where he was questioned, the minor claims he was still very sick but did not ask for medical attention because he was frightened. He was transferred to the Tucson station that same day where he alleges two agents questioned him more about his nationality, called him names like "piece of crap" and "fucking idiot," threatened him with prison, and pushed him from side to side while trying to get information about his nationality. The minor states that, after he was questioned he became more ill and asked for medical attention. He was handcuffed and taken to the hospital, where he received an IV.

(b)(6)

Senior Policy Advisor (Compliance)  
Office for Civil Rights and Civil Liberties (CRCL)  
U.S. Department of Homeland Security  
Washington, DC

202-357-(b)(6)

(b)(6)@dhs.gov

**WARNING:** This message may contain attorney-client communications, attorney work product, and agency deliberative communications, all of which may be privileged and not subject to disclosure outside the agency or to the public. Please consult with the Department of Homeland Security, Office of General Counsel before disclosing any information contained in this email.

8/20/2009

2015-CRFO-0000800375



FLORENCE  
IMMIGRANT  
& REFUGEE  
RIGHTS PROJECT

2601 N. Pinal Pkwy  
P.O. Box 654  
Florence, AZ 85232  
Tel: 520.868.0191  
Fax: 520.868.0192  
Web: www.firrp.org

U.S. Department of Homeland Security  
Office for Civil Rights and Civil Liberties  
Review and Compliance  
245 Murray Lane, SW  
Building 410, Mail Stop #0800  
Washington, DC 20528

VIA FACSIMILE

To Whom It May Concern,

July 16, 2009

This letter is an official complaint on behalf of (b)(6) regarding an instance of physical abuse by the Border Patrol that took place on or around June 6, 2009 at the time of his detention in Tucson, submitted by the Florence Immigrant and Refugee Rights Project (FIRRP).

(b)(6) a fifteen-year-old citizen of El Salvador, reported that he felt threatened by Border Patrol officer when he was violently pushed from side to side and insulted by officers attempting to get information from him. As an organization that provides legal assistance and advocates on behalf of unaccompanied minors who are under the care of the Office of Refugee Resettlement in Arizona, we are deeply concerned that this incident was a direct violation of the *Flores Settlement Agreement* and the basic civil and human rights of this child.

Under paragraph eleven of the *Flores Settlement Agreement*, "INS treats, and shall continue to treat, all minors in its custody with dignity, respect and special concern for their particular vulnerability as minors". We fear that extracting information from children in this manner does not take into account their "particular vulnerability" and is clearly offensive and disrespectful.

Attached is a formal declaration by the concerned minor, detailing the abuse he experienced with as much detail as he can remember. Also attached is a consent form giving the Florence Project authority to receive personal information regarding (b)(6) case with your office and any related information regarding this incident of abuse and its subsequent investigation.

We hope that this incident will be promptly investigated and forwarded on to the appropriate bodies such that proper action can be taken to prevent similar incidents from occurring in the future. Please do not hesitate to contact the Florence Project with any questions and concerns you might have regarding this complaint. We welcome the opportunity to meet with you and further assist you in resolving this issue.

Thank you for your attention to this important matter and for your assistance in insuring that unaccompanied minors taken into Immigration custody along the Arizona/Sonora border are treated in accordance with our laws.



**FLORENCE  
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Web: www.firrp.org

(b)(6)

The Florence Immigrant and Refugee Rights Project  
PO Box 654  
Florence, AZ 85232  
Tel. 520-868-0191  
Fax. 520-868-0192

(b)(6)

The Florence Immigrant Rights Project  
PO Box 654  
Florence, AZ 85232  
Tel. 520-868-0191  
Fax. 520-868-0192

Attachments:

- Affidavit of Alleged Abuse of
- Release of Information, signed

(b)(6)

CC:

(b)(6),(b)(7)(C)

Chief Patrol Agent, Tucson Border Patrol Sector  
U.S. Customs and Border Protection

Assistant Border Patrol Chief  
1300 Penn Ave NW  
D.C. 20229

(b)(6),(b)(7)(C)



**Affidavit of Abuse**

I, (b)(6) do swear under penalty of perjury that the following declaration is true and correct to the best of my knowledge and that it has been read back to me in Spanish.

- 1) I am fifteen years old and a citizen of El Salvador.
- 2) I entered the United States on or around July 6, 2009 through the Sonoran desert with a group of six people, one of which was a guide. I was left by group near a paved road because I was very sick and constantly throwing up. I waited there until it was morning, to turn myself in to Border Patrol. I was caught by Border Patrol around 10 am that morning.
- 3) The Border Patrol officers took me to a station near where I was caught where they asked me multiple questions such as my age and nationality. I said I was fifteen, which was the truth, and that I was from Mexico, which was a lie. I was still very sick from the desert but I did not ask for medical attention because I was scared.
- 4) That same day I was taken to another station which I believed was called Tucson. Once there, Border Patrol officers questioned me once again. Two Border Patrol officers, one who seemed to be Latino and tall and the other who seemed to be Caucasian with blue eyes and white hair, surrounded me and told me that if I didn't tell the truth about my nationality they would put me in jail for many years. They called derogatory names such as "pinche pendejo" [fucking idiot] and "mierda" [piece of crap] as they each pushed me from one side to the other while I was standing up. I was shocked when I heard them say these words since I consider them to be very bad. I finally said I was from El Salvador because I was scared they would hurt me or lock me away for a long time.
- 5) After they questioned me I started to feel even sicker so I finally asked for medical attention and I was taken to the hospital in handcuffs, where I was given an IV. I felt better after that.

**Executed on July 13, 2009 in Phoenix, Arizona.**

(b)(6)

Date: 07/24/2009

I, \_\_\_\_\_

\_\_\_\_\_ (b)(6)  
authorize the United States Department of Homeland Security to share personal information regarding this official complaint with the Florence Immigrant and Refugee Rights Project.

*Yo autorizo al Departamento de Seguridad Nacional de los Estados Unidos a compartir información personal respecto a esta queja oficial con el Proyecto Florence para los Derechos de Inmigrantes y Refugiados.*

(b)(6)

Date: 07/24/2009

## CERTIFICATE OF TRANSLATION

I, (b)(6), certify that I am competent to translate the foregoing declaration of (b)(6), originally made before me in Spanish, and that the translation is true and accurate to the best of my abilities.

I certify that under penalty of perjury that this translation is true and correct pursuant to USC sec. 1746.

Date: 7/16/09

(b)(6)



**FLORENCE  
IMMIGRANT  
& REFUGEE  
RIGHTS PROJECT**

2801 N. Pinal Pkwy  
P.O. Box 654  
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U.S. Department of Homeland Security  
Office for Civil Rights and Civil Liberties  
Review and Compliance  
245 Murray Lane, SW  
Building 410, Mail Stop #0800  
Washington, DC 20528

VIA FACSIMILE

To Whom It May Concern,

July 9, 2009

This letter is an official complaint on behalf of (b)(6) regarding an instance of physical abuse by the Border Patrol on June 9, 2009 at the time of his arrest, submitted by the Florence Immigrant and Refugee Rights Project (FIRRP).

(b)(6) a sixteen year old citizen of Guatemala, reported that he was hurt by a Border Patrol officer during his arrest. According to him, the officer threw him to the ground and put his boot on the side of his face and pressed it down hard, causing his eye to swell. As an organization that provides legal assistance and advocates on behalf of unaccompanied minors who are under the care of the Office of Refugee Resettlement in Arizona, we are deeply concerned that this incident was a direct violation of the Code of Federal Regulations, the *Flores Settlement Agreement*, and the basic civil and human rights of this child.

8 C.F.R. 287.8 specifically states that, "a designated immigration officer shall always use the minimum non-deadly force necessary to accomplish the officer's mission and shall escalate to a higher level of non-deadly force only when such higher level of force is warranted by the actions, apparent intentions, and apparent capabilities of the suspect, prisoner, or assailant." According to what (b)(6) stated, the officer did not seem to be using the minimum force required to apprehend this child. Moreover, this incident also violates paragraph eleven of the *Flores Settlement Agreement* which states, "INS treats, and shall continue to treat, all minors in its custody with dignity, respect and special concern for their particular vulnerability as minors". We fear that the officer who allegedly injured (b)(6) did not comply with this agreement by not treating minors with respect and dignity.

Attached is a formal declaration by the concerned minor, detailing the abuse he experienced with as much detail as he can remember. Also attached is a consent form giving the Florence Project authority to receive personal information regarding (b)(6) case with your office and any related information regarding this incident of abuse and its subsequent investigation.

We hope that this incident will be promptly investigated and forwarded on to the appropriate bodies such that proper action can be taken to prevent similar incidents from occurring in the future. Please do not hesitate to contact the Florence Project with any questions and concerns you might have regarding this complaint. We welcome the opportunity to meet with you and further assist you in resolving this issue.



**FLORENCE  
IMMIGRANT  
& REFUGEE  
RIGHTS PROJECT**

Thank you for your attention to this important matter and for your assistance in insuring that unaccompanied minors taken into Immigration custody along the Arizona/Sonora border are treated in accordance with our laws.

Sincerely,

2601 N. Pinal Pkwy  
P.O. Box 654  
Florence, AZ 85232  
Tel: 520.868.0191  
Fax: 520.868.0192  
Web: www.firrp.org

(b)(6)

The Florence Immigrant and Refugee Rights Project  
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(b)(6)

The Florence Immigrant Rights Project  
PO Box 654  
Florence, AZ 85232  
Tel. 520-868-0191  
Fax. 520-868-0192

Attachments:

- Affidavit of Alleged Abuse of
- Release of Information, signed

(b)(6)

CC: Chief (b)(6),(b)(7)(C)  
Chief Patrol Agent, Tucson Border Patrol Sector  
U.S. Customs and Border Protection

Assistant Chief (b)(6),(b)(7)(C)  
1300 Penn Ave NW  
Washington D.C. 20229

**Affidavit of Abuse**

I, (b)(6) do swear under penalty of perjury that the following declaration is true and correct to the best of my knowledge and that it has been read back to me in Spanish.

- 1) I am sixteen years old and a Guatemalan citizen.
- 2) I entered the United States through Altar, Sonora on July 9, 2009 with a group of twenty-two people.
- 3) Around 5 am in the morning of July 9, 2009, Border Patrol spotted us and everyone in the group ran away. An officer dressed in a green uniform, who was tall, skinny, had blonde hair and brown eyes, ran after me. When he finally caught me he threw me to the floor and smashed the side of my head into the ground with his boot. This hurt very much and my eye began swelling a few minutes afterwards. When were walking to the Border Patrol truck, the same officer told me that if I ran he would, "quebrar tu pinche madre" [English equivalent of "fuck you up"].
- 4) After I was caught by Border Patrol, I saw a girl from my group, who was sixteen, being hit on the head by a Border Patrol officer with a flashlight. She fell to the ground after she was hit and I never got to see if she got up after that. Seeing this scared me because I didn't know if they were going to do something like that to me.
- 5) My eye continued swelling and hurting even after we got to the detention center but I did not ask for medical attention nor was I given any. I was taken to the doctor once I arrived at the shelter I am now.

**Executed on July 14, 2009 in Phoenix, Arizona.**

(b)(6)

Date: 7/24/09

I, (b)(6), A# (b)(6),  
authorize the United States Department of Homeland Security to share personal  
information regarding this official complaint with the Florence Immigrant and Refugee  
Rights Project.

*Yo autorizo al Departamento de Seguridad Nacional de los Estados Unidos a compartir  
información personal respecto a esta queja oficial con el Proyecto Florence para los  
Derechos de Inmigrantes y Refugiados.*

(b)(6) Date: 07/24/2009



## CERTIFICATE OF TRANSLATION

I, (b)(6) *certify that I am competent to translate*  
the foregoing declaration of (b)(6)  
originally made before me in Spanish, and that the translation is true and accurate to the  
best of my abilities.

I certify that under penalty of perjury that this translation is true and correct pursuant to  
USC sec. 1746.

Date: 07/24/09

(b)(6)



FLORENCE  
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& REFUGEE  
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July 9, 2009

U.S. Department of Homeland Security  
Office for Civil Rights and Civil Liberties  
Review and Compliance  
245 Murray Lane, SW  
Building 410, Mail Stop #0800  
Washington, DC 20528

To Whom It May Concern,

This letter is an official complaint on behalf of (b)(6) regarding an instance of physical abuse by the Border Patrol (BP) at the time of his detention, submitted by the Florence Immigrant and Refugee Rights Project (FIRRP). (b)(6) a fifteen year old Guatemalan native and citizen, reported that during his arrest in the desert on or around April 24, 2009, he was hit in the mouth by a Border Patrol agent after he had already been handcuffed. In addition, he reported that in the detention facility another agent choked him, after he asked for food. As an organization that provides legal assistance and advocates on behalf of unaccompanied minors who are under the care of the Office of Refugee Resettlement in Arizona, we are deeply concerned that this incident was a direct violation of the Code of Federal Regulations and the Flores Settlement Agreement.

8 C.F.R. 287.8 specifically states that, "a designated immigration officer shall always use the minimum non-deadly force necessary to accomplish the officer's mission and shall escalate to a higher level of non-deadly force only when such higher level of force is warranted by the actions, apparent intentions, and apparent capabilities of the suspect, prisoner, or assailant." In (b)(6) case the arresting officer did not seem to be using the minimum non-deadly force necessary, especially after the minor was already handcuffed. Furthermore, this incident seems to also violate paragraph eleven of the Flores Settlement Agreement which states, "INS treats, and shall continue to treat, all minors in its custody with dignity, respect and special concern for their particular vulnerability as minors". We feel that the officer who choked (b)(6) after he asked for food directly violated this agreement by not treating minors with respect and dignity and by using disproportionate and unwarranted physical force in his response to the minor's request.

Attached is a formal declaration by the concerned minor, detailing the abuse he experienced with as much information as he remembers. Also attached is a consent form giving the Florence Project authority to receive personal information regarding (b)(6) case with your office and any related information regarding this incident of abuse and its subsequent investigation.

We hope that this incident will be promptly investigated and forwarded on to the appropriate bodies such that proper action can be taken to prevent similar incidents from occurring in the future. Please do not hesitate to contact the Florence Project with any questions or concerns you might have regarding this complaint. We welcome the opportunity to meet with you and further assist you in resolving this issue.



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Thank you for your attention to this important matter and for your assistance in insuring that unaccompanied minors taken into Immigration custody along the Arizona/Sonora border are treated in accordance with our laws.

(b)(6)

The Florence Immigrant and Refugee Rights Project  
PO Box 654  
Florence, AZ 85232  
Tel. 520-868-0191  
Fax. 520-868-0192

(b)(6)

The Florence Immigrant and Refugee Rights Project  
PO Box 654  
Florence, AZ 85232  
Tel. 520-868-0191  
Fax. 520-868-0192

Attachments:

- Affidavit of Abuse of (b)(6)
- Release of Information (b)(6)

CC: Chief (b)(6),(b)(7)(C)  
Chief Patrol Agent, Tucson Border Patrol Sector  
U.S. Customs and Border Protection  
2430 S. Swan Road  
Tucson, AZ 85711

### Affidavit of Abuse

1. (b)(6) do swear under penalty of perjury that the following declaration is true and correct to the best of my knowledge and that it has been read back to me in Spanish.

1) I am 15 years old and a citizen of Guatemala. I crossed into the United States from Mexico and was arrested in the desert near Altar.

2) I entered the United States through the desert on April 24, 2009 with a group of fifteen people and one guide. I was separated from my group because I couldn't keep up. I hid under a tree and that is where Border Patrol found me, around 4 in the morning, along with six others from my group.

3) At the time of my arrest, a Border Patrol agent who was tall, white, and quite big shined a light in my face and then handcuffed me. He put on his glove and then he hit me in the mouth near my right cheek. I was bleeding because of it but I didn't receive any medical attention from the officers, even after they noticed. My mouth hurt after the agent hit me.

4) The officer who hit me in the mouth and another officer took me to a truck and asked me questions. I told them that I am fifteen and at first I said that I was from Mexico but they didn't believe me so I told them the truth, that I am from Guatemala.

5) On the way to the detention center, in the truck, I was hungry so I tried to eat the crackers that I had been carrying with me. They got really angry, took my bag, looked inside and then stepped on it. I think they were looking for drugs because that is what they kept asking me about. They found no drugs because I wasn't carrying any.

6) Once I was in the Tucson detention center, they took my picture and then they gave me papers to sign. I signed them, but I didn't know what they said and the Border Patrol never explained them to me.

7) I was in detention for two days. I slept on the floor and they didn't give me any blankets. I was in a cell with a few other boys who were 16 and 17 years old.

8) On April 26, 2009, my last day in the detention center in Tucson, I was hungry, so I asked for crackers. A Border Patrol agent, who was thin, had brown hair, brown eyes and a mustache got very angry and called me a "pig". Then, he tried to choke me and threw me to the ground. This hurt me. Some other boys in the cell saw him do this and got very scared too. One of the boys who saw this happen is named (b)(6) (b)(6) he is this shelter with me.

9) My first language is Kiche, and Border Patrol never gave me an interpreter so that I would understand what they were saying. I speak little Spanish so I did not understand much of what was said to me.

**Executed on July 1, 2009 in Phoenix, Arizona.**

(b)(6)

Date 07/20/09

I, (b)(6), A# (b)(6)  
authorize the United States Department of Homeland Security to share personal  
information regarding this official complaint with the Florence Immigrant and Refugee  
Rights Project.

*Yo autorizo al Departamento de Seguridad Nacional de los Estados Unidos a compartir  
información personal respecto a esta queja oficial con el Proyecto Florence para los  
Derechos de Inmigrantes y Refugiados.*

(b)(6) \_\_\_\_\_

Date: 07/20/09

CERTIFICATE OF TRANSLATION

1. (b)(6) certify that I am competent to translate the foregoing declaration of (b)(6), originally made before me in Spanish, and that the translation is true and accurate to the best of my abilities.

I certify that under penalty of perjury that this translation is true and correct pursuant to USC sec. 1746.

Date: 07/20/09

(b)(6)

**From:** (b)(6)  
**Sent:** Thursday, July 30, 2009 3:34 PM  
**To:** (b)(6)  
**Subject:** Need information on 2 new UAC matters!

**Importance:** High

(b)(6)

I believe the below 2 UAC were/are in ORR placement facilities. I need to know if they required medical attention when they arrived. If so, it would be helpful to know what the medical issues were and what type of medical diagnosis or treatment they received. They were both apprehended in the Tucson Sector.

Is that do-able? If so, the sooner the better. Thanks!

(b)(6)

His A is reported as

(b)(6)

but it may be

(b)(6)

(b)(6)

Senior Policy Advisor (Compliance)  
Office for Civil Rights and Civil Liberties (CRCL)  
U.S. Department of Homeland Security  
Washington, DC  
202-357- (b)(6)  
(b)(6)@dhs.gov

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TO: (b)(6)

FAX 202-401-4708

Medical Records as requested.

~~31~~ Pages this page included.  
28









































**From:** (b)(6)  
**Sent:** Friday, February 05, 2010 12:55 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Retention Documents for Matters Involving Border Patrol  
**Attachments:** TUCSON FIVE JUVENILES-RETENTION MEMO.pdf; TUCSON FIVE JUVENILES-ORIGINAL COMPLAINTS.pdf

Dear Colleagues,

Please see attached Retention Memo and original complaint documents for 5 matters involving unaccompanied minors and Tucson Sector Border Patrol.

As the Memo states, CRCL is adding these complaints to an onsite investigation of other complaints involving the Sector. Those older complaints are listed in the Memo as well. CRCL's onsite is scheduled for 2/8 through 2/12, and we have coordinated with Tucson IA for investigation needs and logistics.

If you have any questions, please let me know. Thank you.

(b)(6)

Senior Policy Advisor (Compliance)  
Office for Civil Rights and Civil Liberties (CRCL)  
U.S. Department of Homeland Security  
Washington, DC  
202-357-(b)(6)  
(b)(6)@dhs.gov

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**To:** (b)(6)  
**Cc:**  
**Subject:** New Unaccompanied Minor Complaint - (b)(6)  
CRCL Complaint 09-12-CBP-0167  
**Attachments:** ORR DUCS Significant Incident Report (SIR) Form.mht (b)(6)  
(b)(6) referral.pdf

(b)(6)

During his apprehension near Sasabee, Arizona, the apprehending agent allegedly punched the 16 yr old UAC in the head and back, and hit him in the groin with his flashlight. HHS/ORR's Casefile Mgmt form indicates this minor was in DHS custody for 2 days before ORR was notified of the need to place this minor, as required.

The original complaint documents are attached. Please let me know if you have questions.

(b)(6)

Senior Policy Advisor (Compliance)  
Office for Civil Rights and Civil Liberties (CRCL)  
U.S. Department of Homeland Security  
Washington, DC  
202-357- (b)(6)  
(b)(6) @dhs.gov

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**From:** (b)(6),(b)(7)(C)@dhs.gov]

**Sent:** Tuesday, January 19, 2010 6:37 PM

**To:** (b)(6) (b)(6),(b)(7)(C)

**Cc:** (b)(6),(b)(7)(C)

**Subject:** RE: Need some information

**Attachments:** (b)(6)

**Categories:** Red Category

(b)(6)

As requested.

(b)(6),(b)(7)(C)

---

**From:** (b)(6)@dhs.gov]

**Sent:** Tuesday, January 19, 2010 3:03 PM

**To:** (b)(6),(b)(7)(C)

**Cc:**

**Subject:** Need some information

(b)(6),(b)(7)(C)

We have five new complaints that I will be adding to the Tucson onsite investigation. The retention documents (retention memo and data request) are under leadership review, so you don't have them yet.

Given we're planning the onsite for the second week in February (2/8 through 2/12), we're going to be pressed to get the data in time so I'd like to at least ask for the 213s now, if possible. I'll take them via email. These are the names and A#s.

(b)(6)

This week I'm working on organizing all of the complaints, involved stations, personnel, etc. When I've got it in order, I'll send a complete list. (So far, the number of minors involved total 17. A good number of the complaints implicate the Naco Station, but also Tucson, Sonoita, Casa Grande, Sasabe, Douglas.)

Thanks much.



(b)(6)

Senior Policy Advisor (Compliance)  
Office for Civil Rights and Civil Liberties (CRCL)  
U.S. Department of Homeland Security  
Washington, DC

202-357

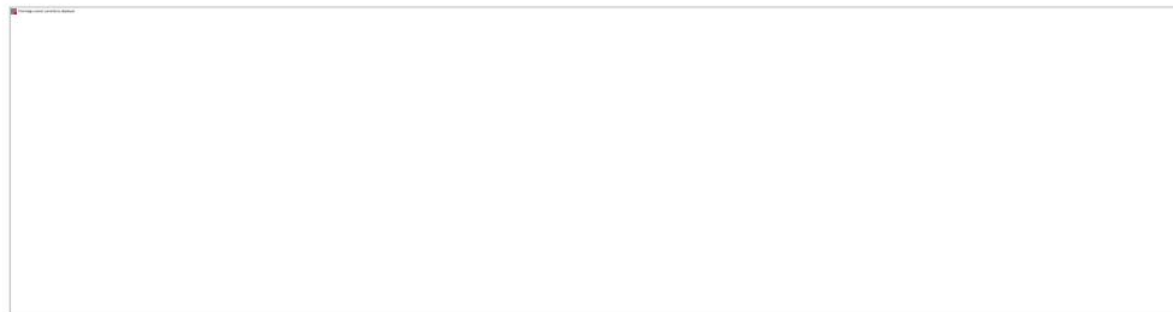
(b)(6)

(b)(6)

@dhs.gov

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**From:** (b)(6)@dhs.gov]  
**Sent:** Wednesday, November 18, 2009 12:00 PM  
**To:** (b)(6)  
**Subject:** FW: New Unaccompanied Minor Complaint - (b)(6)  
CRCL Complaint 09-12-CBP-0167  
**Attachments:** ORR DUCS Significant Incident Report (SIR) Form.mht; (b)(6)  
(b)(6) referral.pdf  
**Categories:** Red Category



The below matter was reviewed by the U.S. Department of Homeland Security (DHS), Office of Inspector General (OIG) and is being returned to you for disposition in accordance with your organization's applicable policies and procedures. ...

You are not required to inform the DHS OIG of any action you might take in this matter.



**From:** (b)(6)  
**To:** (b)(6)  
**Subject:** FW: DHS Abuse Allegations  
**Date:** Friday, November 06, 2009 3:43:00 PM  
**Attachments:** SIR - (b)(6)  
SIR - (b)(6)  
cement information BCFS .pdf  
referral.pdf  
st placement with DUCS .pdf

---

(b)(6)  
Senior Policy Advisor (Compliance)  
Office for Civil Rights and Civil Liberties (CRCL)  
U.S. Department of Homeland Security  
Washington, DC  
202-357- (b)(6)  
(b)(6)@dhs.gov

WARNING: This message may contain attorney-client communications, attorney work product, and agency deliberative communications, all of which may be privileged and not subject to disclosure outside the agency or to the public. Please consult with the Department of Homeland Security, Office of General Counsel before disclosing any information contained in this email.

---

**From:** (b)(6)@acf.hhs.gov]  
**Sent:** Saturday, September 05, 2009 1:12 AM  
**To:** (b)(6)  
**Subject:** FW: DHS Abuse Allegations

(b)(6)  
United States DHHS\ACF\ORR\DUCS  
Federal Field Specialist Supervisor  
(202) 680- (b)(6)



Homeland  
Security

FEB 04 2010

(b)(6)  
(b)(6) Division of Unaccompanied Children's Services  
Office of Refugee Resettlement  
Administration for Children and Families  
U.S. Department of Health and Human Services  
370 L'Enfant Promenade, SW  
Washington, DC 20447

Re: Complaint Numbers:

09-12-CBP-0168

(b)(6)

10-01-CBP-0016

(b)(6)

09-12-CBP-0167

(b)(6)

10-01-CBP-0015

(b)(6)

09-12-CBP-0169

(b)(6)

Dear Ms. (b)(6)

Between September 5, 2009 and October 23, 2009, the U.S. Department of Homeland Security's (DHS) Office for Civil Rights and Civil Liberties (CRCL) received five Significant Incident Reports (SIR) from your Office regarding the treatment of (b)(6) by (b)(6) employees or officials of Customs and Border Protection.

Under 6 U.S.C. 345 and 42 U.S.C. 2000ee-1, CRCL has the responsibility to review and assess information concerning abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion, by employees and officials of the Department of Homeland Security. Pursuant to 6 U.S.C. 345(a)(6) and internal Department of Homeland Security policies, CRCL initially refers all such complaints to the Office of Inspector General for handling under the Inspector General Act of 1978, as amended. If the Inspector General declines to accept the

complaint, it is returned to this Office for handling or reassignment within the Department of Homeland Security. The Office of Inspector General has declined to open an investigation into the allegations you raise. However, CRCL has determined that we will review one or more of the concerns discussed in the SIRs.

This Office takes allegations of violations of civil rights and civil liberties very seriously. The purpose of our review is to determine if the allegations raise issues that should and can be addressed by the management of the Department of Homeland Security. You can expect to receive a letter from us telling you when we have concluded our review.

Under 6 U.S.C. 345 and 42 U.S.C. 2000ec-1, no legal or procedural rights or remedies are provided to individuals. Accordingly, this Office may not obtain any legal remedies, damages or other relief on behalf of an individual.

If you have any questions concerning these complaints, you may contact (b)(6) in this Office by phone at 202-357-(b)(6) or by email at (b)(6)@dhs.gov. We request that you place this notification with the unaccompanied minors' records. We appreciate you bringing these matters to our attention.

Sincerely,



David D. Gersten  
Acting Deputy Officer for Programs and Compliance  
Office for Civil Rights and Civil Liberties  
U.S. Department of Homeland Security



Homeland  
Security

FEB 04 2010

MEMORANDUM FOR: David V. Aguilar  
Acting Deputy Commissioner  
Customs and Border Protection

Michael J. Fisher  
Acting Chief  
Office of Border Patrol  
Customs and Border Protection

Alfonso Robles  
Chief Counsel  
Customs and Border Protection

FROM:

A handwritten signature in black ink, appearing to be "MS", written over a redacted area.

Margo Schlanger  
Officer for Civil Rights and Civil Liberties

David J. Palmer (b)(6) For DJP  
Deputy Associate General Counsel (Legal Counsel)  
Office of General Counsel

SUBJECT:

Complaint Numbers:

09-12-CBP-0168

(b)(6)

10-01-CBP-0016

(b)(6)

09-12-CBP-0167

(b)(6)

10-01-CBP-0015

(b)(6)

09-12-CBP-0169

(b)(6)

The Office for Civil Rights and Civil Liberties (CRCL) has received five individual complaints alleging that employees or officials of the Department of Homeland Security Customs and Border Protection (CBP) have abused each complainant's civil rights or civil liberties. The

*Protected by Attorney-Client and Deliberative Process Privileges*

purpose of this memorandum is to notify you that CRCL will investigate and resolve these complaints, and to describe how CRCL will work with CBP during the investigation.

## INTRODUCTION

The mission of CRCL is to assist the dedicated men and women of this Department to secure the nation from the threats we face, from terrorism to natural disasters, while preserving our freedoms and equality under the law. Our work involves every activity of the Department, including immigration enforcement, disaster management, transportation screening, border security, intelligence analysis, and scientific research. CRCL has four chief functions:

- We help the Department shape policy that protects civil rights and civil liberties by providing proactive advice, evaluation, and review of a wide range of technical, legal and policy issues.
- We communicate with communities whose members' civil rights and civil liberties may be affected by Department activities, informing them about policies and avenues of redress and ensuring that their concerns receive appropriate attention within the Department;
- We investigate and resolve civil rights and civil liberties complaints filed by the public regarding Departmental policies or actions taken by Departmental personnel.
- We lead the Department's Equal Employment Opportunity programs, seeking to make this Department the model federal agency.

Under 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, this Office is charged with investigating and assessing complaints of abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion, by employees and officials of the Department. The procedures the Office uses as it investigates complaints filed by members of the public are outlined in Department of Homeland Security Management Directive 3500.

## ALLEGATIONS

Between September 5, 2009 and October 23, 2009, CRCL received five Significant Incident Reports (SIR) from the HHS Office of Refugee Resettlement (ORR) conveying allegations that Tucson Sector Border Patrol agents mistreated five unaccompanied minors.

1. Sixteen-year-old (b)(6) alleges that after he was apprehended by Border Patrol near Naco, Arizona, he was held at a Border Patrol station where he was fed only two crackers and juice for each of four meals, over a period of one day. ORR records also indicate that ORR was not notified of the unaccompanied minor's presence or his need for placement until two days after his apprehension.

2. Fifteen-year-old (b)(6) alleges that during her apprehension near Naco, Arizona on September 30, 2009, a Border Patrol agent, described as a Caucasian male, asked her in Spanish where she was from. When she responded that she was "Mexican," she claims the agent called her "mentirosa" (liar) and struck her four times on her head with a flashlight, causing injury.
3. Sixteen-year-old (b)(6) alleges that the Border Patrol agent who apprehended him near Sasabe, Arizona, punched him in his head and back, and hit him in the groin with a flashlight. ORR records indicate that ORR was not notified of the unaccompanied minor's presence or of his need for placement, until approximately two days after his apprehension.
4. Seventeen-year-old (b)(6) alleges the Border Patrol agents who apprehended her near Naco, Arizona, endangered her when they used her to lure and apprehend the "coyote" who smuggled her into the United States. When she was injured during the subsequent apprehension operation, she claims Border Patrol then failed to provide her with adequate medical care. According to ORR's SIR and follow-up email account of the incident, the same Border Patrol agents who apprehended the unaccompanied minor instructed her to call the smuggler by telephone and ask him to pick her up at a nearby gas station. When the smuggler arrived, (b)(6) entered the smuggler's vehicle. When he saw Border Patrol agents in the area, he drove through a ditch to evade the agents and eventually collided with a bridge, which caused her to be injured. ORR explains that Border Patrol agents assisted her and she also was examined by EMTs when an "ambulance" arrived at the scene. The EMTs reportedly treated her for minor injuries and instructed her to go to the hospital if she continued to feel pain. However, (b)(6) alleges that she was taken to the Border Patrol station and kept there overnight in intense pain and with a swollen eye, and received no medical care from agents even though she reported her pain to them. The SIR states that she was transferred the following morning to another Border Patrol facility where she received pain medication. The SIR and medical reports note in addition that, upon (b)(6) eventual arrival at the ORR facility, facility staff observed scrapes, bruises, and a swollen eye and took her to the hospital where she was examined and prescribed pain medication again.
5. Seventeen-year-old (b)(6) alleges that after he was apprehended by Border Patrol, he was taken to "what appeared to be a Border Patrol Station in an unknown location" in Arizona and, as he exited the vehicle, the Border Patrol agent who was holding the vehicle door open elbowed him in the stomach with such force that it caused him to lose his breath and double over in pain. Inside the station, the unaccompanied minor claims, several agents verbally abused him and threatened to strike and to shoot him. He also claims that he was denied food, even though he told agents that he was



hungry. The SIR states that (b) (6) was placed in a cell with unknown adults, even though he told the agents that he was a minor. ORR records also indicate that they were not notified of the unaccompanied minor's presence, or of his need for placement, until two days after his apprehension.

### SCOPE OF REVIEW

This Office will conduct a review of these matters. The purpose of our review is to determine if the factual allegations in the complaints can be verified; if the verified facts lead to a conclusion that the Constitution, a federal statute, or a Departmental policy has been violated; and, if so, what steps should be taken by CBP to address the complaints. Our goal will be to produce a report that will assist you in making CBP the model agency that you aspire to be. Our communications with CBP personnel and documents generated during this review, particularly the final report, will be protected to the maximum extent possible by attorney-client and deliberative process privileges.

### QUESTIONS PRESENTED

The specific questions that the Office will be exploring include:

1. (b)(5) Are Tucson Sector Border Patrol agents using the appropriate level of force during apprehensions that involve unaccompanied minors?
2. Are Tucson Sector Border Patrol agents verbally or physically abusive toward unaccompanied minors while they are in Border Patrol custody?
3. Are Tucson Sector Border Patrol agents providing unaccompanied minors with appropriate medical care, and types and amounts of food, as required by Border Patrol hold room policy?
4. Are Tucson Sector Border Patrol Stations separating unaccompanied minors from unknown adults, as required by the *Flores* Settlement Agreement and Border Patrol Hold Room Policy?
5. Did agents endanger the life or welfare of a sixteen-year-old female unaccompanied minor, (b) (6) when they used her to lure and apprehend a smuggler, which resulted in injuries to her?
6. Are Border Patrol stations in the Tucson Sector expeditiously processing unaccompanied minors and notifying Immigration and Customs Enforcement (ICE) of the

(b)(5)  
unaccompanied minors in a timely manner, to hasten their transfer from DHS custody to ORR?

7. If there are problems in the treatment of unaccompanied minors by personnel in the Tucson Sector, what are the causes, and how can those problems best be addressed and solved?

#### INITIATING THE INVESTIGATION

We request an initial discussion with your agency about these complaints and our plans for reviewing these matters. (b) (6) will be handling the review of these complaints. This investigation will be combined with six existing complaints involving the treatment of twelve additional unaccompanied minors in the Tucson Sector (09-10-CBP-0116, 09-10-CBP-0111, 09-10-CBP-0129, 08-09-CBP-0123, 08-09-DHS-0126, and 09-02-DHS-0008), the review of which is already scheduled for the week of February 8 through February 12, 2010.

We request that you schedule an initial discussion with Ms. (b) (6) as soon as possible. We look forward to working together to determine all the facts surrounding these matters and, if appropriate, the best way forward. If you have any questions, please do not hesitate to contact Ms. (b) (6) by phone at 202-357-(b) (6) (1-866-644-8361 TTY), or by email at (b) (6)@dhs.gov.

Copies to:

(b) (6)  
Joint Intake Center  
Customs and Border Protection

(b)(6) (b)(7)(G)  
Franklin Jones  
Executive Director  
Office of Diversity and Civil Rights  
Customs and Border Protection

(b)(6) (b)(7)(C)  
Robert M. Lewandowski  
Chief of Staff  
Office of Border Patrol  
Customs and Border Protection

(b)(6),(b)(7)(C)

Assistant Chief, Office of Internal Affairs/IOD  
Office of Border Patrol  
Customs and Border Protection

Enclosures

*Protected by Attorney-Client and Deliberative Process Privileges*

6

(b)(6)

**From:** (b)(6)@dhs.gov]  
**Sent:** Thursday, October 15, 2009 3:30 PM  
**To:** (b)(6)  
**Subject:** RE: 10 New UAC Complaints - Please review my recommendations

Agree, thanks. Sorry about the delay in reviewing. I would like for us to receive more info regarding # 9 before letting it go.

**From:** (b)(6)@dhs.gov]  
**Sent:** Wednesday, October 07, 2009 3:54 PM  
**To:** (b)(6)  
**Subject:** 10 New UAC Complaints - Please review my recommendations

(b)(6)

**Please review and see my recommendations on these new UAC complaints, sent by ORR. Let me know if you agree with my recommendations. Thank you!**

(b)(6)

1) (b)(6)

When the 17 yr old UAC was taken to the Sasabee, AZ BP station after his apprehension, an agent allegedly who opened the BP vehicle door purposefully elbowed the minor in the stomach, hard enough that it caused the minor to lose his breath and double over. He claims the same agent and several others inside the station continued to be verbally abusive and threaten to shoot and hit the minor. The minor claims that he was placed in a holding cell with three adults, where he remained even though he told agents he was a minor. He also alleges that he told the agents he was hungry but was denied food. The minor was eventually transferred to the Tucson Station where he states better treatment. The ORR SIR indicates the minor remained at the first Station over 24 hours, and that ORR wasn't notified until 2 days after apprehension.

**Recommendation:** (b)(5)

2) (b)(6)

During apprehension near Sasabee, Arizona, the apprehending agent allegedly punched the 16 yr old UAC in the head and back, and hit him in the groin with his flashlight. ORR's Casefile Mgmt form indicates this minor was in DHS custody for 2 days before ORR was notified.

**Recommendation:** (b)(5)

(b)(5)

3) (b)(6)

This 16-year-old UAC was apprehended near Naco, AZ. He alleges that, while he was detained by Border Patrol he was only fed two crackers and juice for 4 meals. He claims he was transferred to a phoenix detention facility where he received the same meal for breakfast, a regular lunch, and then only two pieces of bread for dinner. ORR Casefile Mgmt form indicates ORR wasn't notified until 2 days after his apprehension.

**Recommendation:** (b)(5)

4) (b)(6)

The UAC claims a BP agent caused minor facial injuries during apprehension. He was running from agents, then stopped when he was knocked down and landed on the ground face first.

**Recommendation:** (b)(5)

5) (b)(6)

This 15-year-old UAC was apprehended near Nogales, AZ. He alleges that, that while he was being held by ICE in a detention center (more likely Border Patrol), he was fed a small burrito for each meal which included

11/4/2009

2015-CRFO-0000800426

dinner, breakfast, and lunch. Only for breakfast he was offered a small box of milk. He was transferred to ORR the following day.

**Recommendation:** (b)(5)

6) (b)(6)

This 13 yr old UAC was evading apprehension by Imperial Beach, CA BP agents, with two other aliens, during evening hours of 9/11/09 by running into the ocean and crawling in shallow water near the beach. Eventually he got out of the water and ran down the shoreline when a BP vehicle approached, and the minor surrendered by walking toward the vehicle. The minor claims a Caucasian agent emerged from the vehicle, grabbed the minor by the back of the neck, shoved him and kicked him on the shins to trip him, causing him to fall onto his hands and face. The same agent allegedly pulled the minor up to a standing position then again kicked him as before, knocking him back down on the ground. The UAC claimed he had to turn his head away so he would not hit the side of the vehicle. The same agent allegedly shoved the minor into the back of the BP vehicle, onto the laps of two other aliens he had crossed with and who also scattered but were apprehended. One of those aliens apparently stated to the minor "they really gave it to you bad." When he arrived at the ORR facility the same day as his apprehension, the intake worker did not notice any bruises or injuries.

**Recommendation:** (b)(5)

7) (b)(6)

*This complaint is a switch from the norm:* When apprehended, this alien reported to agents that he was 19, but the agents didn't believe him, threatened him because they believed he was lying, and sent him to ORR as an unaccompanied minor where he was housed with other minors, even though he was an adult. ORR eventually confirmed he was 19 and removed him from the ORR placement facility.

**Recommendation:** (b)(5)

8) (b)(6)

This 17 yr old UAC was evading apprehension by a BP K9 unit near Naco, AZ when he claims he tired, stopped running, and fell to the ground. He alleges the apprehending agent pulled him by his hair to a standing position, yelled profanities at him, and threw him to the ground, where he hit a rock with the side of his face. He was provided first aid at the BP station. ORR took him for a medical exam, including a facial xray and reports the minor had multiple facial abrasions and minor swelling. He was provided an antibiotic ointment.

**Recommendation:** (b)(5)

9) (b)(6)

This 16 yr old UAC alleges he was taken to a correctional facility in Alexandria, LA, blindfolded. While he was detained at the facility for 1 1/2 months, he alleges facility officers would force the detainees to "fight with iron bars, knum-chucks and chains" and he would receive \$10.00 if he won the fight.

**Recommendation:** (b)(5)

(b)(5)

10) (b)(6)

This 17 yr old minor claims that while she was being held at Hidalgo County Jail (Texas), she was repeatedly sexually abused by another "inmate." The ORR Casefile Mgmt Report indicates she was at the jail for 1 day before transfer to ORR.

**Recommendation:** (b)(5)

(b)(5)

(b)(6)

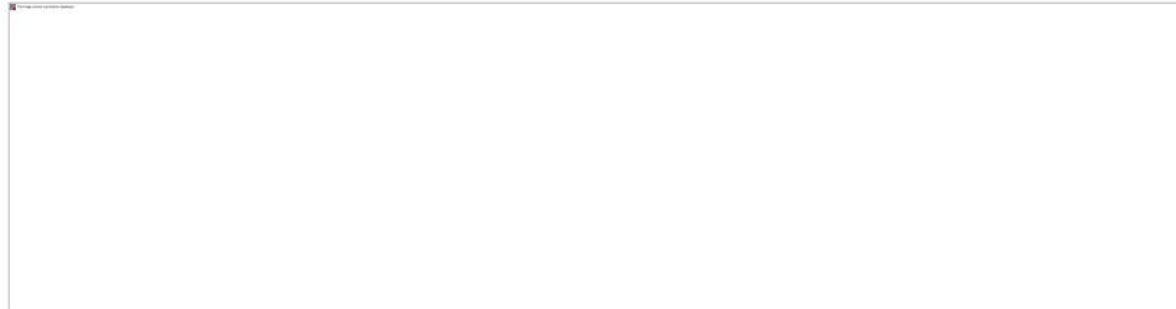
Senior Policy Advisor (Compliance)  
Office for Civil Rights and Civil Liberties (CRCL)  
U.S. Department of Homeland Security  
Washington, DC  
202-357- (b)(6)

(b)(6) @dhs.gov

11/4/2009

2015-CRFO-0000800427

**From:** (b)(6)@dhs.gov]  
**Sent:** Wednesday, November 18, 2009 12:02 PM  
**To:** (b)(6)  
**Subject:** FW: New Unaccompanied Minor Complaint (b)(6)  
(b)(6) CRCL Complaint #09-12-CBP-0168)  
**Attachments:** SIR.pdf  
**Categories:** Red Category



The below matter was reviewed by the U.S. Department of Homeland Security (DHS), Office of Inspector General (OIG) and is being returned to you for disposition in accordance with your organization's applicable policies and procedures.

You are not required to inform the DHS OIG of any action you might take in this matter.

---

**From:** (b)(6)@dhs.gov]  
**Sent:** Tuesday, November 10, 2009 1:36 PM  
**To:** (b)(6)  
**Cc:**  
**Subject:** New Unaccompanied Minor Complaint (b)(6) CRCL Complaint #09-12-CBP-0168)

(b)(6)

This 16-year-old UAC was apprehended near Naco, AZ. He alleges that, while he was detained by Border Patrol he was only fed two crackers and juice for 4 meals. When he was later transferred to a Phoenix facility he claims he received the same meal of crackers and juice for breakfast, a regular lunch consisting of a hamburger, but then only received french fries and two pieces of bread for dinner. (The HHS/ORR Casefile Mgmt form indicates ORR wasn't notified of this minor until 2 days after his apprehension.)

Let me know if you have questions.

Thank you.

(b)(6)



(b)(6)

Senior Policy Advisor (Compliance)  
Office for Civil Rights and Civil Liberties (CRCL)  
U.S. Department of Homeland Security  
Washington, DC

202-357

(b)(6)

(b)(6)

@dhs.gov

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(b)(6)

**From:** (b)(6)@acf.hhs.gov]  
**Sent:** Saturday, September 05, 2009 1:22 AM  
**To:** (b)(6)  
**Subject:** FW: SIR - DHS Abuse Allegations  
**Follow Up Flag:** Follow up  
**Flag Status:** Blue  
**Attachments:** SIR - (b)(6)  
Referral.pdf; (b)(6) Referral.pdf

More Allegations

(b)(6)

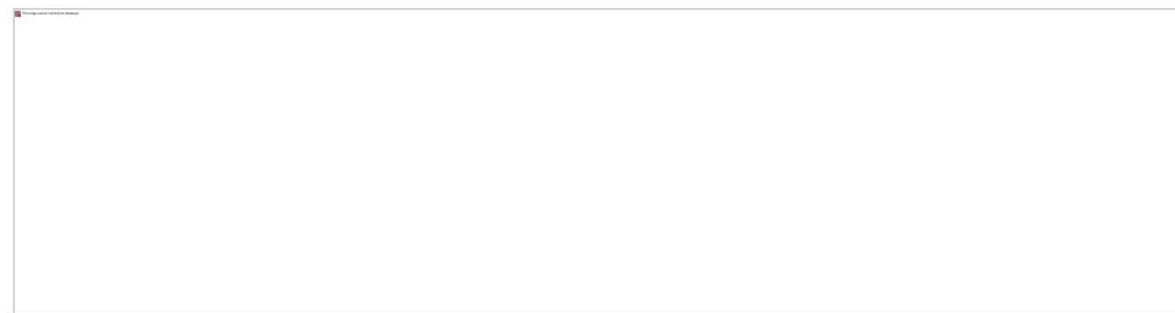
United States DHHS\ACF\ORR\DUCS  
Federal Field Specialist Supervisor  
(202) 680 (b)(6)

11/4/2009

2015-CRFO-0000800430



**From:** (b)(6)@dhs.gov]  
**Sent:** Wednesday, November 18, 2009 12:06 PM  
**To:** (b)(6)  
**Subject:** FW: New Unaccompanied Minor Complaint (b)(6)  
CRCL Complaint #09-12-CBP-0169)  
**Attachments:** SIR.pdf



The below matter was reviewed by the U.S. Department of Homeland Security (DHS), Office of Inspector General (OIG) and is being returned to you for disposition in accordance with your organization's applicable policies and procedures.

You are not required to inform the DHS OIG of any action you might take in this matter.

---

**From:** (b)(6)@dhs.gov]  
**Sent:** Tuesday, November 10, 2009 5:51 PM  
**To:** (b)(6)  
**Cc:** (b)(6)  
**Subject:** RE: New Unaccompanied Minor Complaint (b)(6) CRCL Complaint #09-12-CBP-0169)

Sorry, I meant to attach the original complaint. It's here

(b)(6)  
Senior Policy Advisor (Compliance)  
Office for Civil Rights and Civil Liberties (CRCL)  
U.S. Department of Homeland Security  
Washington, DC  
202-357-(b)(6)  
(b)(6)@dhs.gov

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**From:** (b)(6)  
**Sent:** Tuesday, November 10, 2009 2:11 PM  
**To:** (b)(6)  
**Cc:** (b)(6)  
**Subject:** New Unaccompanied Minor Complaint (b)(6) CRCL Complaint #09-12-CBP-0169)

(b)(6)

This matter involves an unaccompanied minor (UAC). On 9/5/09 CRCL received a Significant Incident Report (SIR) from the HHS Office of Refugee Resettlement (ORR) reporting that after 17-year-old UAC (b)(6) was taken to the Sasabee, Arizona Border Patrol BP station after his apprehension. Allegedly, the Border Patrol agent who opened the vehicle door for the minor to exit, purposefully elbowed the minor in the stomach – hard enough that it caused the minor to lose his breath and double over. The minor claims the same agent and several other agents inside the station continued to be verbally abusive, and threatened to shoot and hit the minor. The minor also alleges that he was placed in a holding cell with three unknown adults, and was kept there even though he told Border Patrol agents that he was a minor. He also alleges that he told the agents he was hungry but was denied food. The minor was eventually transferred to the Tucson Station where he states he was treated better. (The SIR information indicates the minor remained at the first Station over 24 hours, and that ORR wasn't notified until 2 days after apprehension.)

Please let me know if you have any questions.

Thank you

(b)(6)

Senior Policy Advisor (Compliance)  
Office for Civil Rights and Civil Liberties (CRCL)  
U.S. Department of Homeland Security  
Washington, DC  
202-357 (b)(6)

(b)(6)@dhs.gov

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(b)(6)

**From:** (b)(6)@acf.hhs.gov]  
**Sent:** Saturday, September 05, 2009 12:56 AM  
**To:** (b)(6)  
**Subject:** (b)(6)  
**Follow Up Flag:** Follow up  
**Flag Status:** Blue  
**Attachments:** SIR - (b)(6).htm; (b)(6).pdf

Here is another.

(b)(6)

United States DHHS\ACF\ORR\DUCS  
Federal Field Specialist Supervisor  
(202) 680-(b)(6)

11/4/2009

2015-CRFO-0000800433

(b)(6)

**From:** (b)(6)@dhs.gov]  
**Sent:** Thursday, November 05, 2009 9:01 AM  
**To:** (b)(6)  
**Subject:** RE: New Unaccompanied Minor Complaints 11/04/09 - (b)(6) Recommendations  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged  
**Categories:** Red Category

Agree, thanks.

---

**From:** (b)(6)@dhs.gov]  
**Sent:** Wednesday, November 04, 2009 9:57 PM  
**To:** (b)(6)  
**Subject:** New Unaccompanied Minor Complaints 11/04/09 - (b)(6) Recommendations

(b)(6)

Please let me know if you agree with my recommendations.

(b)(6)

This 17 year old minor was apprehended by Border Patrol near Naco, AZ. BP asked her to cooperate with them to apprehend the coyote who smuggled her into the U.S. They convinced her to call the coyote and arrange for him to pick her up at a gas station. When he showed up, she got in the vehicle. He saw BP and took off with the minor, collided with a bridge, which caused the minor to be thrown out of the vehicle and she was injured in several places. EMT came, examined her there, and told her to go to the hospital if she continued to feel pain. BP took her into custody in handcuffs, questioned and processed her. She alleges she spent the night at the station but was in intense pain all night and had a swollen eye. She claims she repeatedly told agents she was hurting but received nothing for her pain. She stated that, she was taken to another place the next morning, was interrogated further and once again she complained of having pain and she was given three pain pills and fell asleep. When she arrived at ORR, ORR notes she had scrapes and bruises and a swollen eye. Orr took her to a hospital in Scottsdale where she received a CAT scan, X-rays, and received a prescription for pain.

**Recommendation:** (b)(5)

(b)(5)

(b)(6)

This 15 year old minor claims that he was verbally abused by ICE in an ICE facility (though I'm sure it's Border Patrol), in the Douglas, AZ area. He said the officers didn't believe that he was Mexican and frightened him when they threatened that if he wasn't truthful he would be sent to a jail where inmates would rape and abuse him.

**Recommendation:** (b)(5)

(b)(6)

This 15 year old minor alleges that when she was apprehended near Naco, AZ, a Caucasian Border Patrol agent asked her in Spanish where she was from and when she said she was "Mexican" the agent hit her four times in the head with a flashlight and said "Mentirosa" giving her a bump on her head.

**Recommendation:** (b)(5)

(b)(6)

Senior Policy Advisor (Compliance)  
Office for Civil Rights and Civil Liberties (CRCL)  
U.S. Department of Homeland Security  
Washington, DC

202-357-(b)(6)

(b)(6)@dhs.gov

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(b)(6)

**From:** (b)(6)  
**Sent:** Tuesday, November 10, 2009 4:53 PM  
**To:** (b)(6)  
**Subject:** RE: Medical Records for (b)(6)  
**Attachments:** (b)(6).pdf

(b)(6) these medical documents state nothing about a bump on her head, resulting from being hit on the head with a flashlight by an agent - as the SIR alleges. The documents you forwarded are all about a foot injury she got while playing soccer, a throat problem, vaccines, and a medical exam, but nada about a head injury.

Is there any supporting documentation with regard to the allegation?

(b)(6)

Senior Policy Advisor (Compliance)  
Office for Civil Rights and Civil Liberties (CRCL) U.S. Department of Homeland Security Washington, DC  
202-357-(b)(6)  
(b)(6)@dhs.gov

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-----Original Message-----

**From:** (b)(6)@acf.hhs.gov]  
**Sent:** Friday, November 06, 2009 9:11 PM  
**To:** (b)(6)  
**Subject:** FW: Medical Records for (b)(6)

Here is another set of medical records that are for a case that I previously elevated to you.

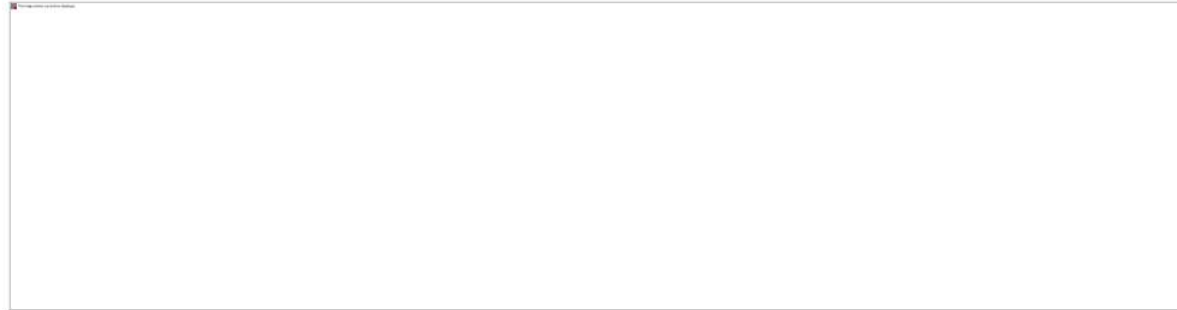
(b)(6)

United States DHHS\ACF\ORR\DUCS  
Federal Field Specialist Supervisor  
(202) 680-(b)(6)

-----Original Message-----



**From:** (b)(6)@dhs.gov]  
**Sent:** Wednesday, November 18, 2009 12:04 PM  
**To:** (b)(6)  
**Subject:** FW: New Unaccompanied Minor Complaint (b)(6)  
(b)(6) CRCL Complaint #10-01-CBP-0016)  
**Attachments:** SIR.pdf



The below matter was reviewed by the U.S. Department of Homeland Security (DHS), Office of Inspector General (OIG) and is being returned to you for disposition in accordance with your organization's applicable policies and procedures.

You are not required to inform the DHS OIG of any action you might take in this matter.

---

**From:** (b)(6)@dhs.gov]  
**Sent:** Tuesday, November 10, 2009 5:47 PM  
**To:** (b)(6)  
**Cc:**  
**Subject:** New Unaccompanied Minor Complaint (b)(6) CRCL Complaint #10-01-CBP-0016)

(b)(6)

This matter involves an unaccompanied minor. On 10/21/09 CRCL received a Significant Incident Report from the HHS Office of Refugee Resettlement reporting that 15-year-old (b)(6) (b)(6) was struck on the head by a Border Patrol agent during her apprehension at or near Naco, Arizona. The minor alleges that a Caucasian Border Patrol agent asked her in Spanish where she was from, and when she stated she was "Mexican" the agent called her "Mentirosa" and hit her four times in the head with a flashlight, causing a bump on her head.

Let me know if you have questions.

(b)(6)  
Senior Policy Advisor (Compliance)  
Office for Civil Rights and Civil Liberties (CRCL)  
U.S. Department of Homeland Security  
Washington, DC  
202-357-(b)(6)

(b)(6)@dhs.gov

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(b)(6)

**From:** (b)(6) [redacted]@acf.hhs.gov]  
**Sent:** Wednesday, October 21, 2009 10:43 PM  
**To:** (b)(6) [redacted]; (b)(6) [redacted]  
**Subject:** FW: DHS Abuse Allegation (b)(6) [redacted]  
**Follow Up Flag:** Follow up  
**Flag Status:** Blue  
**Attachments:** SIR - (b)(6) [redacted].pdf

(b)(6)

The girl was found to have an AKA so I will send that in the morning. I should also have a copy of her medical screening to forward to you tomorrow as well.

(b)(6)

United States DHHS\ACF\ORR\DUCS  
Federal Field Specialist Supervisor  
(202) 680-(b)(6) [redacted]

11/4/2009

(b)(6)

---

**From:** (b)(6)@acf.hhs.gov]  
**Sent:** Friday, November 06, 2009 9:11 PM  
**To:** (b)(6)  
**Subject:** FW: Medical Records for (b)(6)  
**Attachments:** (b)(6).pdf

Here is another set of medical records that are for a case that I previously elevated to you.

(b)(6)

United States DHHS\ACF\ORR\DUCS  
Federal Field Specialist Supervisor  
(202) 680-(b)(6)

-----Original Message-----